

BEFORE THE MINNESOTA

BOARD OF DENTISTRY

In the Matter of
Lesli A. Kegler, D.H.
License No. H6036

**AMENDED STIPULATION AND ORDER
FOR CONDITIONAL LICENSE**

The Minnesota Board of Dentistry ("Board") is authorized pursuant to Minnesota Statutes chapter 150A, sections 214.10 and 214.103, to license and regulate dental hygienists, to refer complaints against dental hygienists to the Attorney General for investigation, and to take disciplinary action when appropriate.

The Board received a complaint against Lesli A. Kegler, D.H. ("Licensee"). The Board's Complaint Committee ("Committee") reviewed the complaint and referred it to the Attorney General for investigation. The Committee held a conference with Licensee and the parties have agreed that the matter may now be resolved by this amended stipulation and order.

STIPULATION

IT IS HEREBY STIPULATED AND AGREED by and between Licensee and the Committee as follows:

A. Jurisdiction. Licensee holds a license to practice dental hygiene in the State of Minnesota from the Board and is subject to the jurisdiction of the Board with respect to the matters referred to in this amended stipulation. Licensee states that she does not hold a license to practice dental hygiene in any other jurisdiction and does not hold any other professional or occupational licenses.

B. Facts. Solely for purposes of this agreement and any proceeding before the Board and without prejudice to Licensee in a proceeding in any other forum, the following shall be considered the factual basis before the Board. The Board and the Committee acknowledge that, based on the manner in which Licensee provided information, Licensee has the full protection provided by Minnesota Statutes section 150A.08, subdivision 7.

1. From at least October 2 until about November 21, 2000, Licensee was employed as a dental hygienist in Mendota Heights, Minnesota. Relative to events during this employment, on March 27, 2001, Licensee was charged with one felony count of Financial Transaction Card Fraud. The charge transpired following an investigation by the Mendota Heights Police Department, Mendota Heights, Minnesota, into the theft of credit cards from an elderly patient while she was being treated at the dental office where Licensee was employed. The investigation, including surveillance tapes, showed that between October 2 and October 4, 2000, Licensee fraudulently charged a total of \$2,786.90 at department stores using the patient's credit card.

2. On August 6, 2001, Licensee entered a guilty plea and was sentenced in Dakota County District Court. The imposition of sentence was stayed and Licensee was placed on four years of probation. Licensee was also ordered to serve 30 days on electronic home-monitoring, pay a \$30 surcharge and restitution, and follow all rules and regulations of the probation department.

3. In written responses dated May 23 and June 26, 2002, Licensee noted she felt "great shame" about what had happened. To provide some context for what happened, Licensee stated that at that time she was in a "financial mess," so much so that she felt it was a "no-win situation." Licensee stated she had a "faulty mindset," and she thought she could make

some purchases and then sell the items to “get some money to help get out of [her] financial dilemma.”

4. On December 13 2002, the Board adopted a stipulation and order (“2002 order”) placing Licensee’s license in a conditional status. Terms of the 2002 order included a requirement Licensee provide a copy of the order to the dentist where she was employed within 30 days of the effective date of the order. Licensee was also required to submit quarterly self-reports and quarterly reports from her probation officer.

5. By letter dated April 15, 2003, Board staff notified Licensee she was out of compliance with several terms of the 2002 order. Specifically, as of the date of the letter, the Board had not received a statement from Licensee’s employer/dentist, verifying the dentist had received and reviewed a copy of the 2002 order. Licensee had also failed to submit a self-report or a report from her probation officer. As a result of her noncompliance with the 2002 Order, Licensee was assessed a \$300 fine.

6. On or about April 22, 2003, Board staff received a letter dated April 17, 2003. The letter stated: “I, [Dentist A], current and sole employer of Ms. Lesli Kegler, have received and reviewed the Stipulation and Order dated December 13, 2002.” The letter was signed, “[Dentist A].”

7. On May 5, 2003, Board staff spoke with Dentist A, who identified herself as Licensee’s employer. Dentist A contacted the Board to determine why Licensee was the subject of disciplinary action. Dentist A stated she learned of the disciplinary action when she read the Board’s latest newsletter. Board staff confirmed with Dentist A that Licensee had not provided Dentist A with a copy of the 2002 order or otherwise notified her of the order. The

following day, Dentist A submitted a letter to the Board confirming the information she provided the previous day.

8. The 2002 order also required Licensee to complete by June 13, 2003 (six months from the date of the order), one-on-one evaluation and instruction with a mental health professional addressing professional accountability, ethics, and boundary violations. Licensee was to submit a resume or curriculum vitae of the proposed consultant for preapproval by Board staff. By letter dated June 24, 2003, and received at the Board office on July 3, 2003, Licensee requested an extension until September 1, 2003, in which to complete the one-on-one evaluation.

9. On July 9, 2003, the Board served Licensee with a notice of hearing and alleged violations ("notice"). The notice scheduled a conference with the Committee on August 8, 2003. In her written response to the notice and during the conference, Licensee acknowledged she had submitted the falsified letter from Dentist A referred to in paragraph 6 and stated she did so because she was ashamed of her conduct and believed her employment would be terminated when Dentist A became aware of her criminal conviction. Licensee reported, to the contrary, she has continued her employment with Dentist A even after fully disclosing her conduct.

C. Violations. The Committee considers the foregoing conduct not to comply with Minnesota Statutes section 150A.08, subdivision 1(2), (6), and (13), and Minnesota Rules 3100.6200A and 3100.6200I and is sufficient grounds for the disciplinary action specified below.

D. Disciplinary Action. Licensee and the Committee recommend that the Board issue an order which places **CONDITIONS** on Licensee's license to practice dental hygiene in the State of Minnesota as follows:

CONDITIONS

1. One-on-One Consultation. Within six months of the date of this order, Licensee shall complete a one-on-one evaluation and begin therapy/instruction with a mental health professional addressing professional accountability, ethics, and boundary violations. The evaluation and therapy/instruction shall last until such time as the consultant or the Committee determines is sufficient to achieve the learning objectives. The consultant must be approved by Board staff, for purposes of this order, before the consultation begins. In order for the Board to consider approving a consultant, Licensee shall submit or cause to be submitted the resume or curriculum vitae of the proposed consultant and proposed course outline. Licensee is responsible for arranging and paying for the evaluation and instruction. The consultation shall provide an independent and objective evaluation of Licensee's professional practice, especially in the areas of unethical and unprofessional behavior and her personal support system as it relates to her professional practice. The consultant shall submit a report directly to the Board, addressing the following:

- a. Verification the consultant has reviewed a copy of this amended stipulation and order;
- b. An evaluation of Licensee's understanding of the subjects of the therapy/instruction prior to beginning the consultation;
- c. A description of the content and method of therapy/instruction provided during the consultation;
- d. A statement indicating what Licensee learned and achieved through the therapy/instruction and how the learning was evaluated;

e. Any recommendations for ongoing participation in therapy or a support group; and

f. Any other information the consultant believes would assist the Board in its ultimate review of this matter.

2. Weekly Reports. Until Licensee has received Committee approval of a consultant and provided evidence she has begun the one-on-one evaluation/consultation, Licensee shall provide Board staff with weekly reports of her progress in obtaining a consultant.

3. Compliance With Consultant's Recommendations. Licensee shall comply with any recommendations for additional education, evaluation, or consultation made by the mental health professional, including participation in an identified support group. Licensee must submit written documentation, such as measurable learning objectives and qualifications of the instructor, in order to receive prior approval from Board staff of classes that Licensee takes in fulfillment of this requirement. Licensee shall submit verification of participation for any class taken in fulfillment of this requirement.

4. Written Report. Within 30 days of completing the evaluation and therapy/instruction pursuant to paragraph 1 above, Licensee shall submit to the Board a written report summarizing what she has learned and the insight she has gained through the one-on-one consultation and the steps she has taken to prevent repeat conduct. Licensee's report shall be typewritten in her own words, double-spaced, and consist of at least two pages but no more than three pages. The report is subject to approval by the Committee.

5. Self-Report. Licensee shall submit quarterly reports to the Board. The first report shall be due within three months of the date of the order, and subsequent reports shall be due on the first day of each month quarterly thereafter and at the time Licensee petitions to

have the conditions removed from her license. Each report must be prepared by Licensee personally and shall address and/or provide:

- a. Licensee's place of employment;
- b. How Licensee has applied the insight she has gained from the one-on-one consultation to her work setting;
- c. Licensee's compliance with the terms of her probation and restitution payments;
- d. Licensee's participation in a support group; and
- e. Any other information Licensee believes would assist the Board in its ultimate review of this matter.

6. Report From Probation Officer. Licensee shall cause to be submitted a report from her probation officer. The report shall provide information regarding Licensee's compliance with all terms of her probation.

7. Notice to Employers. Within 30 days of the effective date of this order, Licensee shall provide a copy of this amended stipulation and order to the owner of the clinic where she is employed and all dentists employed by the clinic and working at the same site as Licensee. Within ten days of hire, Licensee shall provide a copy of this amended stipulation and order to any future owners and dentists employed by the clinic and working at the same site as Licensee. Licensee shall submit to the Board a signed, written statement from each present and future owner and dentist employed by the clinic and working at the same site as Licensee, verifying they have received and reviewed a copy of this amended stipulation and order.

8. Other Conditions.

a. Licensee shall comply with the laws or rules of the Board of Dentistry. Licensee agrees that failure to comply with the Board's laws or rules shall be a violation of this amended stipulation and order.

b. Licensee shall fully and promptly cooperate with the Board's reasonable requests concerning compliance with this amended stipulation and order, including requests for explanations, documents, and/or appearances at conferences. Minnesota Rules 3100.6350 shall be applicable to such requests.

c. In Licensee's practice of dental hygiene, Licensee shall comply with the most current infection control requirements of Minnesota Rules 3100.6300 and 6950.1000 through 6950.1080 and with the Centers for Disease Control and Prevention, Public Health Service, United States Department of Health and Human Services, *Recommended Infection-Control Practices for Dentistry, 1993*, MORBIDITY AND MORTALITY WEEKLY REPORT, May 28, 1993, at 1.

d. In the event Licensee should leave Minnesota to reside or practice outside the state, Licensee shall notify the Board in writing of the new location within five days. Periods of residency or practice outside of Minnesota will not apply to the reduction of any period of Licensee's discipline in Minnesota unless Licensee demonstrates that practice in another state conforms completely to this amended stipulation and order.

E. Removal of Conditions. Licensee may petition to have the conditions removed from Licensee's license at any regularly scheduled Board meeting no sooner than three years after the effective date of this order, provided that Licensee's petition is received by the Board at least 30 days prior to the Board meeting. At the time of Licensee's petition, Licensee shall have

the burden of proving that she has complied with the conditions and is qualified to practice dental hygiene without conditions. Licensee's completion of the conditions shall not create a presumption that the conditions should be removed. Upon consideration of the evidence submitted by Licensee or obtained through Board investigation, the Board may remove, amend, or continue the conditions imposed by this order.

F. Fine for Violation of Order. If information or a report required by this amended stipulation and order is not submitted to the Board by the due date, or if Licensee otherwise violates this amended stipulation and order, the Committee may fine Licensee \$100 per late report or other violation. Licensee shall pay the fine and correct the violation within five days after service on Licensee of a demand for payment and correction. If Licensee fails to do so, the Committee may impose additional fines not to exceed \$500 per violation. The total of all fines may not exceed \$5,000. Licensee waives the right to seek review of the imposition of these fines under the Administrative Procedure Act, by writ of certiorari under Minnesota Statutes section 480A.06, by application to the Board, or otherwise. Neither the imposition of fines nor correction of the violation will deprive the Board of the right to impose additional discipline based on the violation.

G. Additional Discipline for Violation of Order. If Licensee violates this amended stipulation and order, Minnesota Statutes chapter 150A, or Minnesota Rules chapter 3100, the Board may impose additional discipline pursuant to the following procedure:

1. The Committee shall schedule a hearing before the Board. At least ten days before the hearing, the Committee shall mail Licensee a notice of the violation alleged by the Committee and of the time and place of the hearing. Within seven days after the notice is

mailed, Licensee shall submit a response to the allegations. If Licensee does not submit a timely response to the Board, the allegations may be deemed admitted.

2. At the hearing before the Board, the Committee and Licensee may submit affidavits made on personal knowledge and argument based on the record in support of their positions. The evidentiary record before the Board shall be limited to such affidavits and this amended stipulation and order. Licensee waives a hearing before an administrative law judge and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

3. At the hearing, the Board will determine whether to impose additional disciplinary action, including additional conditions or limitations on Licensee's practice or suspension or revocation of Licensee's license.

H. Other Procedures for Resolution of Alleged Violations. Violation of this amended stipulation and order shall be considered a violation of Minnesota Statutes section 150A.08, subdivision 1(13). The Committee shall have the right to attempt to resolve an alleged violation of the amended stipulation and order through the procedures of Minnesota Statutes section 214.103, subdivision 6. Nothing herein shall limit (1) the Committee's right to initiate a proceeding against Licensee pursuant to Minnesota Statutes chapter 14, or (2) the Committee's and the Board's right to temporarily suspend Licensee's license pursuant to Minnesota Statutes section 150A.08, subdivision 8, based on a violation of this amended stipulation and order or based on conduct of Licensee before or after the date of this amended stipulation which is not specifically referred to in paragraph B. above.

I. Attendance at Conference. Licensee and Licensee's attorney, Michael J. Weber, Weber Law Office, 2801 Hennepin Avenue South, Suite 200, Minneapolis, Minnesota 55408,

telephone (612) 296-8080, attended a conference with the Committee on August 8, 2003. The following Committee members attended the conference: Freeman Rosenblum, D.D.S., Ronald King, D.D.S., and Nadene Bunge, D.H.. Assistant Attorney General Ruth E. Flynn represented the Committee at the conference. Licensee continues to be represented by Michael J. Weber, who has advised Licensee regarding this amended stipulation and order.

J. Waiver of Licensee's Rights. For the purpose of this amended stipulation, Licensee waives all procedures and proceedings before the Board to which Licensee may be entitled under the Minnesota and United States constitutions, statutes, or rules of the Board, including the right to dispute the facts contained in this amended stipulation and order and to dispute the appropriateness of discipline in a contested proceeding pursuant to Minnesota Statutes chapter 14. Licensee agrees that upon the application of the Committee without notice to or an appearance by Licensee, the Board may issue an order imposing the discipline specified herein. The Committee may participate in Board deliberations and voting concerning the amended stipulation. Licensee waives the right to any judicial review of the order by appeal, writ of certiorari, or otherwise.

K. Board Rejection of Amended Stipulation and Order. In the event the Board in its discretion does not approve this amended stipulation or a lesser remedy than specified herein, this amended stipulation and order shall be null and void and shall not be used for any purpose by either party hereto. If this amended stipulation is not approved and a contested case proceeding is initiated pursuant to Minnesota Statutes chapter 14 and section 150A.08, Licensee agrees not to object to the Board's initiation of the proceeding and hearing the case on the basis that the Board has become disqualified due to its review and consideration of this amended stipulation and the record.

L. Record. This amended stipulation, related investigative reports, and other documents shall constitute the entire record of the proceedings herein upon which the order is based. The investigative reports, other documents, or summaries thereof may be filed with the Board with this amended stipulation. Any reports or other material related to this matter which are received after the date the Board approves the amended stipulation and order shall become a part of the record and may be considered by the Board in future aspects of this proceeding.

M. Data Classification. Under the Minnesota Data Practices Act, this amended stipulation and order is classified as public data. Minn. Stat. § 13.41, subd. 4. All documents in the record shall maintain the data classification to which they are entitled under the Minnesota Government Data Practices Act, Minnesota Statutes chapter 13. They shall not, to the extent they are not already public documents, become public merely because they are referenced herein. Pursuant to federal rule (45 C.F.R. part 60), the Board must report the disciplinary action contained in this amended stipulation and order to the National Practitioner Data Bank.

N. Entire Agreement. Licensee has read, understood, and agreed to this amended stipulation and is freely and voluntarily signing it. This amended stipulation contains the entire agreement between the parties hereto. Licensee is not relying on any other agreement or representations of any kind, verbal or otherwise.

O. Service and Effective Date. If approved by the Board, a copy of this amended stipulation and order shall be served personally or by first-class mail on Licensee's legal counsel.

The order shall be effective and deemed issued when it is signed by the President or Vice-President of the Board.

LICENSEE

Lesli A. Kegl
LESLI A. KEGLER, D.H.

Dated: Sept. 4, 2003

COMPLAINT COMMITTEE

By: Marshall Shragg
MARSHALL SHRAGG
Executive Director

Dated: 9/10/03, 2003

* * *

ORDER

Upon consideration of the foregoing amended stipulation and based upon all the files, records, and proceedings herein,

The terms of the amended stipulation are approved and adopted, the recommended disciplinary action set forth in the amended stipulation is hereby issued as an order of this Board placing **CONDITIONS** on Licensee's license effective this 10th day of September, 2003.

MINNESOTA BOARD
OF DENTISTRY

By: Freeman Rosenblum
FREEMAN ROSENBLUM, D.D.S.
Chairman

AG: #899079-v1